

# Exhibit 5

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November 11, 2013

**VIA UNITED STATES and ELECTRONIC MAIL**

Chris Tardio  
Gideon Cooper & Essary  
315 Deaderick St., Suite 1100  
Nashville, Tennessee 37238

**Re: New England Compounding Center Litigation, MDL No. 2419  
Complaints filed in United States District Court for the  
Middle District of Tennessee**

Dear Chris:

As you know we served discovery in the above-identified matter on behalf of the Plaintiffs' Steering Committee ("PSC") on October 9, 2013. Since then the parties have exchanged letters and had two in-person meet and confer sessions regarding the scope of discovery. This letter is meant to address three major points that have arisen during these discussions.

You have requested the PSC identify the differences in the recent discovery served and the discovery served in the Wayne Reed case. After initially reviewing these differences, we realized that the discovery we recently served took into consideration many of the issues brought up in the meet and confer process in state court, and accordingly, the easiest way forward is for you to simply answer all discovery responses posed on October 9, 2013, regardless of whether a given request is the exact same request served in the state court litigation.

Next, you have requested that the PSC provide a list of information technology questions to aid a discussion on electronic discovery issues. First, as it relates to the quarantined emails from Saint Thomas Outpatient Neurosurgical Center/Howell Allen, the PSC has determined that given the size of the litigation and the fact that only 50,000 non-de-duplicated emails have been quarantined, a search protocol for these emails is unnecessary. We suggest that you de-dupe these emails, review all of them, and produce those that are responsive and non-privileged. To the extent that you withhold an otherwise producible email on the basis of privilege, please produce a privilege log to allow us to properly assess your claim of privilege. As you are well aware, document processors like DSI, Inc. are readily available to help with the de-duping process.

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With respect to the searching of other computer systems, here is the information we need:

1. The number of custodians that received a litigation-hold letter;
2. The number of computer document repositories subject to the litigation-hold letter;
3. The type of document management system maintained by each custodian (if any);
4. The type of server on which the document management system is maintained;
5. The type of server on which emails are maintained (if different from no. 3);
6. The operating system in use for each personal computer subject to the litigation hold letter;
7. The time you anticipate it would take to search an individual custodian's personal computer;
8. The capacity for each computer/server to be boolean searched.

With regard to searching these electronic discovery repositories, we suggest searching all hard drives and servers with the following terms:

Compound*	McClendon
"health alert network"	Medication
"shut-down"	Meningitis
.gov	Methylprednisolone
"Department of health"	MPA
"New England"	NECC
"Patient list"	Notarianni
Adverse	Notif*
advertise*	Outbreak
Beckham	Dickerson
BUD	Pharm*
Cadden	Price
Candace Smith	Pricing
CDC	Budget
Clint	procure*
Cluster	public health
Contamin*	Quality
death	Recall*
depo-medrol	Rudolph
DeZwaan	Safety
Dose	Shortage
Epidural	Steril*
Expense	Steroid
FASCA	Supplier

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FDA	symptom*
Fungal	Vial
Giamei	Sandoz
guideline	Pfizer
headache	Preservative
Investigat*	Profit
Joint Commission	CuraScript
Kainer	Multi-dose
Generic	Rachel Rome
TEVA	Dexamethasone
Framingham	New England
Woburn	MSM
Boston	Conig*
Single-dose	Fung*
betamethasone	Mening*
Kinkel	Depo*
Latham	Metha*
Manufacturer	Cont* w/3 lot
Massachusetts	USP
Pharmacy-mixed	Culc*
Scham*	80mg
Close*	Bulk
Board	

Please let us know the answers to the above questions and depending on those responses we may need to revise these search terms.

Finally, with regard to an extension on your written discovery, we agree to extend your time to respond to that discovery until November 25, 2013. Given that the discovery we served is substantially similar to the work you have already done in state court litigation, it seems this is more than reasonable. Further, we are happy to discuss a rolling production of documents given the further searching that needs to take place.

Sincerely,

*J. Gerard Stranch, IV*  
J. GERARD STRANCH, IV  
Member of PSC and Tennessee Chair *BAD*

cc: Kristen Johnson Parker